

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

**HERBERT HENDERSON,**

Plaintiff,

**v.**

**DR. HAILIE,**

Defendant.

Case No. 2:21-cv-0790 WBS KJN P

**~~PROPOSED~~ ORDER GRANTING  
DEFENDANT'S MOTION TO MODIFY  
SCHEDULING ORDER TO ALLOW  
DEFENDANT TO FILE TWO  
SUCCESSIVE DISPOSITIVE MOTIONS  
AND TO VACATE DISPOSITIVE  
MOTION DUE DATE**

Plaintiff is a former state prisoner. Defendant B. Haile moved this Court to modify the scheduling order to allow her to file two successive dispositive motions.

“The district court is given broad discretion in supervising the pretrial phase of litigation.” Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992) (citation and internal quotation marks omitted). Rule 16(b) provides that “[a] schedule may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). “The schedule may be modified ‘if it cannot reasonably be met despite the diligence of the party seeking the extension.’” Zivkovic v. Southern California Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting Johnson, 975 F.2d at 607).


On October 20, 2023, the undersigned issued a discovery and scheduling order; discovery closed on February 17, 2023, and the pretrial motions deadline was set for May 12, 2023.

1 The Court read and considered defendant's motion to modify the scheduling order and the  
2 accompanying declaration of counsel, and finds good cause exists to grant the motion. The  
3 current May 12, 2023 pretrial motions deadline is vacated. Defendant filed an exhaustion-based  
4 motion for summary judgment. (ECF No. 33.) If necessary, following resolution of such motion,  
5 the Court will issue a new scheduling order, ordering Defendant to file a merits-based motion for  
6 summary judgment within 60 days of its ruling on the exhaustion-based motion for summary  
7 judgment.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Discovery is closed.
- 10 2. Defendant's motion (ECF No. 35) is granted.
- 11 3. The May 12, 2023 pretrial motions deadline (ECF No. 31) is vacated and will be reset  
12 by court order, if appropriate, following resolution of defendant's motion for summary  
13 judgment (ECF No. 33).

14 Dated: February 22, 2023

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16 KENDALL J. NEWMAN  
17 UNITED STATES MAGISTRATE JUDGE

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